

**CONSERVATION ADVISORY COMMITTEE
REPORT TO TOWN BOARD
April 22, 2024**

It was a quiet month for the CAC. We continue our efforts to complete the Community Greenhouse Gas Inventory and look forward to presenting the can and bottle collection receptacles to the Town within the next few weeks. Chief Cocozza is following up with School officials for the proper placement of the receptacles.

Attached is the letter of comment for the amendment to Town Code 151-41 for inclusion in the minutes for tonight's meeting.

Our next meeting will be held at the Marlboro Free Library Community Room on Thursday, May 9, 6:30 PM.

**Respectfully submitted,
Mici Simonofsky, Chair pro tem**

**Town of Marlborough Conservation Advisory Committee
Comments for Public Hearing, Amendment to Town Code 155-41.1
April 22, 2024**

The Conservation Advisory Committee is grateful for the additional changes being proposed for this Code. It is very gratifying so many made their voices heard, and that the Town Board incorporated multiple suggestions and comments, including those of the CAC, into this new wording.

It is noteworthy and commendable that additional definitions are included. These help further define the intention of the Code. While we did not have ample opportunity to discuss wording for the updated code, we are very appreciative of the inclusion of guidelines for controlling light pollution as well as architectural attention to color of any intended structure.

On the whole, this proposed wording appears to satisfy the public's many questions and comments.

However, there are two concerns.

Code 151-41.1(F)4 presently reads in part:

“Applicants for construction on properties to which this section applies shall demonstrate to the reviewing board or Town Engineer, as the case may be, that the proposed buildings or structures will not extend above the predominant treeline.”

In addition, in section 151-41.1(F)1 of the original Code, the Planning Board or the Zoning Board of Appeals is specifically assigned to review all applications pertaining to Ridgeline and Steep Slope Protection.

In the proposed new wording the Town Code Enforcement Officer is specifically included as a responsible party along with the Town Engineer. This is a change and seems appropriate as their roles are to ensure the Code is explained and enforced. And including their roles in the proposed amendment mirrors other areas in Code 151-41.1 and Code 155-2.

In contrast, in the proposed amendment, “the reviewing board” is eliminated. To be consistent, shouldn’t “the reviewing board,” meaning the Planning Board and Zoning Board of Appeals, also be cited just as they are in both areas of the original wording? Is there a specific reason for removing “*the reviewing board*,”?

It would seem that the most logical place for an applicant to know if they were following the Town Code would be by the Planning Board (or any board) that has to approve the application. Approvals are a lengthy process and it seems fitting the Planning Board or ZBA should be an explicit authority in the process. Its inclusion in this one sentence serves to reinforce their job duties.

We understand the approval for structure placement resides with the Town Engineer and Code Enforcement Officer, but we question why the applicant no longer needs to “demonstrate to the reviewing board” as well that a structure will be placed. The Code should leave no ambiguity about the applicant’s responsibility. Eliminating this phrase of the Code also seemingly removes the Boards’ responsibility for informing and enforcing the Town Code, and is contrary to the roles for which these Boards are intended.

The CAC would suggest keeping the words: “to the reviewing board”. Retaining the voice of the reviewing board in the process allows for a checks and balances provision for all parties involved, and leaves no question as to their respective duties.

The proposed amendment includes a definition of the Ridgeline, reinforcing the definition provided in 151-41.1 (A)3. Including the Town Code Enforcement Officer in the amended wording makes sense. Likewise, reiterating an applicant’s instruction to “demonstrate to the reviewing board and the Town Engineer and Town Code Enforcement Officer....” would also give clear instructions and expectations to all involved.

On a second note, absent any notation of the required distance from the top of the ridgeline which is accomplished by removing the 50-foot

wording, there should also be some numerical or demonstrable method that puts what is allowable on the record so the applicant is certain their project is compliant with the Code. Once again, your goal was to create a Code that was less ambiguous. This would protect the applicant, the Planning Board, and ultimately, the Town.

Thank you for your consideration.

**Respectfully submitted by,
Maribeth King, CAC member, on behalf of
Mici Simonofsky, Chair pro tem
Town of Marlborough Conservation Advisory Committee**